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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 MICHAEL TURNER,

12 Defendant.

CR18-16 TSZ

ORDER

13 THIS MATTER comes before the Court on defendant Michael Turner's motion  
14 for compassionate release, docket no. 625. Having reviewed all papers filed in support  
15 of, and in opposition to, the motion, the Court enters the following order.

16 **Background**

17 Defendant pleaded guilty to conspiracy to distribute controlled substances and  
18 possession of firearms in furtherance of a drug trafficking crime, and was sentenced on  
19 July 10, 2019, to sixty (60) months and one (1) day in the custody of the United States  
20 Bureau of Prisons ("BOP"), with 5 years of supervised release to follow. See Judgment  
21 (docket no. 240). Defendant has been in custody since his arrest on February 13, 2018.  
22 See Detention Orders (docket nos. 8 & 21). He is currently incarcerated at the Federal  
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1 Correctional Institution in Sheridan, Oregon (“FCI Sheridan”), with a projected release  
2 date of May 20, 2022. He seeks immediate release on the ground that his age (52), race  
3 (African-American), and medical conditions (hypertension, severe obesity, chronic  
4 osteoarthritis, including debilitating knee and intermittent back pain, pre-diabetes, kidney  
5 and urologic concerns, cardiac symptoms, including an irregular heartbeat, chest pain,  
6 and shortness of breath, and sleep apnea) increase the possibility of acute illness or death  
7 from Coronavirus Disease 2019 (“COVID-19”). The Court GRANTS the motion for the  
8 reasons stated in this order.

### 9 **Discussion**

10 A sentence is generally considered final and may not be altered except in limited  
11 circumstances. *See* 18 U.S.C. § 3582(b); *see also* *Dillon v. United States*, 560 U.S. 817,  
12 824 (2010). Pursuant to the First Step Act of 2018, however, a defendant may directly  
13 request a reduction in the term of incarceration after exhausting administrative remedies.<sup>1</sup>  
14 *See* 18 U.S.C. § 3582(c)(1)(A). To obtain relief, defendant must show (i) the existence  
15 of “extraordinary and compelling reasons” supporting a reduction; and (ii) his release  
16 would be consistent with the sentencing factors set forth in 18 U.S.C. § 3553(a), and the  
17 applicable policy statement issued by the United States Sentencing Commission (the  
18 “Commission”). *See* 18 U.S.C. § 3582(c)(1)(A).

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22 <sup>1</sup> The Government concedes that defendant has met the prerequisite of exhaustion. Response at 7  
(docket no. 630).

1 **A. Extraordinary and Compelling Reasons**

2 In determining whether “extraordinary and compelling reasons” exist, the Court  
3 considers the “helpful guidance” offered by the application notes to United States  
4 Sentencing Guideline (“USSG”) § 1B1.13. *See United States v. Lineberry*, 2020 WL  
5 6685044 at \*1 (W.D. Wash. Nov. 12, 2020). The Government acknowledges that  
6 defendant’s severe obesity (weight of 330 pounds and BMI of 44.8) is a risk factor under  
7 Centers for Disease Control and Prevention (CDC) guidelines and heightens his risk of  
8 severe complications or death if he contracts COVID-19. Defendant’s age, race, and  
9 other medical conditions also collectively raise the risks to defendant and support the  
10 request for a compassionate release at this time. Defendant has made the requisite  
11 showing of “extraordinary and compelling reasons” for compassionate release. *See*  
12 *United States v. Locke*, 2020 WL 3101016 (W.D. Wash. June 11, 2020).

13 **B. Applicable Sentencing Factors and Policy Statement**

14 Both the statute at issue and the Commission’s policy statement require the Court  
15 to consider the applicable sentencing factors set forth in 18 U.S.C. § 3553(a). *See* 18  
16 U.S.C. § 3582(c)(1)(A); USSG § 1B1.13. The policy statement further mandates that a  
17 defendant may be granted compassionate release only if he or she is “not a danger to the  
18 safety of any other person or to the community,” as evaluated in the manner outlined in  
19 18 U.S.C. § 3142(g). *See* USSG § 1B1.13(2). Sections 3142(g) and 3553(a) have  
20 substantial overlap, both indicating that the Court should take into account (i) the nature  
21 and circumstances of the charged offense, (ii) the history and characteristics of the  
22 defendant, and (iii) the nature and seriousness of the danger to any person or the  
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1 community that would be associated with the defendant's release. See 18 U.S.C.  
2 §§ 3142(g)(1), (3), & (4), and 3553(a)(1) & (2)(C). Section 3553(a) also directs the  
3 Court to choose sentences that promote respect for the law, impose just punishment for  
4 the offense, afford adequate deterrence, provide training, medical care, and correctional  
5 treatment in the most effective manner, and avoid sentence disparities among similarly-  
6 situated defendants. 18 U.S.C. §§ 3553(a)(2) & (6).

7       The Court concludes that a reduction in defendant's sentence is consistent with  
8 these various factors. The Government expresses legitimate concerns about defendant's  
9 drug trafficking convictions and his possession of numerous firearms at the time of his  
10 arrest. Defendant, however, had a criminal history score of one (1), had never been  
11 convicted of a violent offense, and has completed the Residential Drug Abuse Program  
12 (RDAP) while in prison. He has also faced tremendous adversity throughout his life, as  
13 outlined in Probation's Sentencing Recommendation, docket no. 229. The Court also  
14 notes that defendant's last conviction was for a misdemeanor (marijuana possession) over  
15 ten (10) years before the instant conviction in this case. In addition, the Court is  
16 persuaded that defendant's poor health will inhibit him from engaging in similar conduct  
17 after his release, and that the risks associated with COVID-19 will motivate defendant to  
18 remain compliant with the conditions of supervised release. To risk defendant's health  
19 and possibly his life under all the circumstances does not promote respect for the law,  
20 impose just punishment, avoid sentencing disparities, or provide medical care and  
21 correctional treatment in the most effective manner.

1 **Conclusion**

2 For the foregoing reasons, the Court ORDERS:

3 (1) Defendant's motion for compassionate release, docket no. 625, is  
4 GRANTED, and defendant's term of imprisonment is reduced to time served,  
5 **provided as follows:**

6 (a) To alleviate fears about defendant's potential future dangerousness  
7 and to avoid disparity in sentences for similar crimes, the remaining unserved  
8 portion of defendant's term of imprisonment shall be served on supervised release,  
9 see 18 U.S.C. § 3582(c)(1)(A), followed by the previously imposed five-year  
10 period of supervised release;

11 (b) Supervised release shall commence immediately upon defendant's  
12 release from custody, during which time defendant shall be subject to the  
13 mandatory, standard, and special conditions of supervision set forth in the  
14 Judgment, docket no. 240;

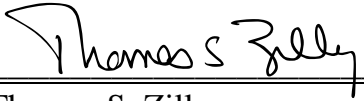
15 (c) To ensure that defendant does not transmit a known pathogen to the  
16 community, defendant shall be placed in quarantine at FCI Sheridan for a 14-day  
17 period prior to his release; if defendant tests positive for the coronavirus that  
18 causes COVID-19 at any time during the quarantine period, BOP shall notify the  
19 Government, which will immediately notify the Court so that this Order may be  
20 appropriately modified;

21 (d) Defendant shall contact the United States Probation Office in Seattle  
22 within 24 hours of his release and follow all instructions he is given.  
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1 (2) The Clerk is directed to send a copy of this Order to all counsel of record.

2 IT IS SO ORDERED.

3 Dated this 17th day of December, 2020.

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5 Thomas S. Zilly  
6 United States District Judge  
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